

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIBEL AYALA, NICOLE A. PACHECO, DOMINICA L. O'NEILL, MICHAEL C. ESTRADA, RICHARD A. GUZMAN, MICHAEL K. GUEVARA, CESAR CASTILLO, MAUMER KLLAPIJA, JASON GONZALEZ, and CRISTIAN SALAZAR,

Plaintiffs,

-against-

CITY OF YONKERS,

Defendant.

ECF Case

07 Civ. 8186 (CLB)

ANSWER/AFFIRMATIVE DEFENSES

JURY TRIAL DEMANDED

Defendant City of Yonkers by and through its attorneys, Thacher Proffitt & Wood LLP, answers the complaint of Plaintiffs (the "Complaint") as follows:

NATURE OF THE ACTION

1. Denies the truth of the allegations set forth in paragraph 1 of the Complaint as they relate to the actions of the Defendant. The remaining allegations set forth in paragraph 1 of the Complaint state legal conclusions as to which no responsive pleading is required.

JURISDICTION

2. The allegations set forth in paragraph 2 of the Complaint state legal conclusions as to which no responsive pleading is required. Defendant respectfully refers the Court to 28 U.S.C. §§ 1331 and 1343 for their complete terms.

THE PARTIES

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Complaint.

4. Admits the allegations set forth in paragraph 4 of the Complaint.

THE FACTS

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Complaint concerning the contents of the editions of the *Guardian*, and denies the remaining allegations set forth in paragraph 5 of the Complaint.

6. Denies the allegations set forth in paragraph 6 of the Complaint and respectfully refers the Court to the Yonkers City Code for its true and complete terms.

AS AND FOR A FIRST CLAIM

7. In response to the allegations contained in paragraph 7 of the Complaint, Defendant repeats and realleges its responses set forth in paragraphs 1-6 of as if fully incorporated herein.

8. Denies the allegations set forth in paragraph 8 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

9. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

10. Plaintiffs lack capacity and or standing to sue.

THIRD AFFIRMATIVE DEFENSE

11. The Court lacks personal and/or subject matter jurisdiction.

FOURTH AFFIRMATIVE DEFENSE

12. Another action is pending.

WHEREFORE, Defendant City of Yonkers respectfully requests that the Court enter an order

- (i) dismissing the Complaint in its entirety;
- (ii) awarding the Defendant attorneys' fees and costs; and

(iii) granting Defendant any other and further relief as the Court deems just and proper.

Dated: White Plains, New York
October 15, 2007

THACHER PROFFITT & WOOD LLP

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